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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,453	11/20/2003	Todd E. Tesch	DP-310230	9826

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EXAMINER

GOODEN JR, BARRY J

ART UNIT PAPER NUMBER

3616

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,453

Applicant(s)

TESCH ET AL.

Examiner

Barry J. Gooden Jr.

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to the RCE filed 11/9/06. Currently claims 1-19 are pending; claims 1-8 are withdrawn; and claims 9 and 16 are amended.

Election/Restrictions

1. Claims 1-8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5/16/06.
2. This application contains claims 1-8 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.
3. Applicant's election with traverse of a method of folding an inflatable cushion in the reply filed on 5/16/06 is acknowledged. The traversal is on the ground(s) that the groups represent merely different aspects of a single invention. This is not found persuasive because the inventions are distinct as discussed in the previous office action.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9-14 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanase et al., US Publication 2001/0,006,287 A1.

In regards to claims 9-14, Tanase et al. discloses all of the claimed elements including an inflatable cushion (10) of a side airbag device to form a folded inflatable cushion that includes a packet of

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parallel pleats comprising a first end pleat, a second end pleat and a series of middle pleats disposed therebetween (Reference is made to Figure 9), comprising:

- providing a securement end (Above 10a) of said inflatable cushion;

- the first end pleat (10a) adjacent to said securement end, said first end pleat and said securement end defining one side (right side) of the folded inflatable cushion;

- a traversing portion (10e, between the first end pleat (10a) and the second end pleat) extending from said first end pleat, said traversing portion defining another side (top side) of the folded inflatable cushion;

- the second pleat extending from the traversing portion such that the first end pleat and the second end pleat are spaced apart by the traversing portion;

- said middle pleats extending from the second end pleat towards the first end pleat;

- said middle pleats including a final middle pleat adjacent to the first end pleat;

- an end portion extending from the final middle pleat toward the second end pleat opposite the traversing portion and disposed about the second end pleat, said end portion defining another two sides of the folded inflatable cushion, wherein said end portion is the first portion of said inflatable cushion to deploy when the inflatable cushion is inflated;

- wherein said securement end has a plurality of securement features (29) for facilitating the securement of said inflatable cushion;

- wherein said side air bag device is installed in a vehicle having a roof rail (2(1)) and headliner (7), wherein said inflatable cushion is folded to be received within an area defined by the roof rail and the headliner;

- wherein said end portion is configured to be adjacent to the roof rail (Reference is made to Figure 9).

In regards to claims 16-19, Tanase et al. discloses all of the claimed elements including an inflatable cushion of a side airbag device to form a folded inflatable cushion that includes a packet of

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parallel pleats comprising a first end pleat, a second end pleat and a series of middle pleats disposed therebetween, comprising:

a securement end (10a and above) of said inflatable cushion (10);

a traversing portion (10e) of said inflatable cushion (10) extending from said securement end, said traversing portion (10e) defining a side (the top) of the folded inflatable cushion (10);

the first end pleat (at the end of the traversing portion) extending from the traversing portion apart from the securement end;

said middle pleats extending from the first end pleat back towards said securement end;

the second end pleat (before 10c) extending from the middle pleats adjacent to the securement end;

an end portion (10c, 10b, and above 10b) of said inflatable cushion extending from the second end pleat about the middle pleats opposite the traversing portion and disposed about the first end pleat, said end portion defining two sides (bottom and left sides) of the folded inflatable cushion, wherein said end portion is the first portion of said inflatable cushion to deploy when the inflatable cushion is inflated;

wherein said securement end (10a) has a plurality (Reference is made to Figure 1) of securement features (29,36) for facilitating the securement of said inflatable cushion (10);

wherein said side air bag device (M1) is installed in a vehicle (Reference is made to Figure 1) having a roof rail (2(1)) and a headliner (7), wherein said inflatable cushion (10) is folded to be received within an area defined by the roof rail (2(1)) and the headliner (7) and said end portion (10b) is configured to be adjacent to the headliner (See Figure 9); and

wherein said traversing portion (10e) is configured to be adjacent to the roof rail (2(1)) (See Figure 9). It is noted that adjacent is defined as close or nearby (Webster's II New Riverside Dictionary, Revised Edition).

6. As Tanase et al. disclose the structures as claimed they inherently disclose the method for folding to arrive at the disclosed final structures.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanase et al. in view of Tanabe et al., US Patent 6,460,877.

In regards to claim 15, Tanase et al. disclose all of the claimed elements excluding the inflatable cushion being folded by a machine. Tanabe et al. teach of an inflatable cushion (10) being folded by a machine (Column 10, lines 10-20).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the side impact airbag of Tanase et al. in view of the teachings of Tanabe et al. to include being folded by a machine so as to provide a more efficient and reproducible resultant structure.

Response to Arguments

10. Applicant's arguments filed 11/9/06 have been fully considered but they are not persuasive.

11. Examiner maintains Tanase et al. discloses all of the claimed elements as discussed above and in the previous rejection.

In regards to applicant's argument of Tanase et al., Figure 9 shows a traversing portion (10e).

Conclusion

12. This is a RCE of applicant's earlier Application No. 10/718,453. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry J. Gooden Jr. whose telephone number is (571) 272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJB


ERIC CULBRETH
PRIMARY EXAMINER


Barry J. Gooden Jr.